Supreme Court, U.S.
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No. : 05-890

In the
Supreme Court of the United States

JOHN ALBERT STEEL,

Petitioner,

v.

DEPARTMENT FOR THE AGING OF THE CITY OF NEW YORK, STATE OF NEW YORK, and CLASSIC REALTY, by HARRY MACKLOWE, Principal, and RAM I, LLC, by ABY ROSEN, Principal,

Respondents.

ON PETITITON FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS, STATE OF NEW YORK NO. 441, JUNE 29, 2005 AND THE APPELLATE DIVISION, FIRST DEPARTMENT, ON INDEX NUMBER 100951/03, NEW YORK COUNTY, JANUARY 20, 2005

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. If the facts and the law change from the inception of the case through the appellate review, should the final facts and law be used to decide the case?

2. If a state statute allows voters in a region of the state of not affected by said state stature, to vote for legislators who determine the rights of voters in another region of the state who are affected by said state statue, is said state statute unconstitutional under the rule that no state can make and enforce any law that does not give equal justice to all residents of the state?

3. Are principals of entities which have profited from an application of an unconstitutional state statute, liable to refund those benefits with interest?

4. Does the principle of sovereign governmental immunity, inability of an citizen to sue a city or state for relief, prevent a citizen from [illegible]ng for relief where damages are demonstra

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STATUTES AND RULES

Article XIV, Section 1, U.S. Constitution

New York State Statute, 1971 Unconsolidated Law Section 8605, Local Emergency Housing Rent Control Act, Section 5, popularly referred to as the "Urstadt Law" in New York State

Federal Statute 42 USC Section 2000, Civil Rights Act of 1964 mandating a fair and equal resolution of citizens of a state's voting rights.

Rules of the U.S. Supreme Court, Rule 14, 1 (g) (i) showing that a federal question which is timely and properly raised will enable this Court to consider jurisdiction to review a state judgment on a petition for a writ of certiorari, and

Rule 10, Considerations governing review on certiorari, the character of the reasons the Court considers in its judicial discretion, (c) a state court decided an important question of federal law that has not been, but should be, settled by this Court because it affects the rights not only of residential New York City, but also any other cities and states throughout the country either which have housing rent control now, or which may be considering adopting housing rent controls in the future.

Rule 14, 5, if the Clerk determines that a petition submitted timely and in good faith is in a form that does not comply with this rule or with Rule 33 or Rule 44, the Clerk may return with it a letter indicating its deficiencies. A corrected petition form the Petitioner then received no more than 60 days after the date of the Clerk's letter will be deemed timely for a Petition for a Writ of Certiorari.

CITATIONS OF THE OFFICIAL AND UNOFFICIAL REPORTS OF OPINIONS AND ORDERS ENTERED IN THE CASE

1. Order of Supreme Court, Appellate Division, First Department, State of New York, January 20, 2005, Appendix B, denying constitutional challenge to the "Urstadt law" but thereby confirming that a constitutional federal challenge has thereby been raised qualifying consideration for a U.S. Supreme Court petition for a writ of certiorari under U.S. Supreme Court Rule 14 (1) (g) (i)

2. Order of William A. Wetzel, J, New York County, State, New York, entered on June 16, 2003, dismissing proceeding brought by Appellant who had "purchased" judicial intervention by paying a fee after Respondent Department of Aging, City of New York denied his "appeal" to it under their procedures, which Appellant followed a procedural form which left him only the alterative selecting "mandamus" as a possible relief, and which drew an assigned index no. 100951/03 in the state lower court; this Order of Justice Wetzel, J. was then appealed by the Appellant to the Appellate Division of state court, which dismissed his appeal, see Appendix C

3. Order of the Court of Appeals, State of New York, June 29, 2005, Appendix D, not dismissing any appeal to it on Order No. 2 of the Appellate Division, but denying Appellant's Motion No. 441 of 2005 for leave to appeal to the Court of Appeals after consideration of adversarial papers filed thereof in opposition, by the Department of Aging of the City of New York by its

Corporation Counsel and the State of New York by its Attorney General, deciding the April 30, 2005 motion for permission to appeal denying it, Appendices E and F.

STATEMENT OF THE BASIS FOR JURISDICTION

State courts, both the Court of Appeals and before that the Appellate Division, First Department of the State of New York, have decided questions of federal law that have not been to this date, but should be, settled by the U.S. Supreme Court, Rule 10 (c), including the question of sovereign immunity hearing a suit by a citizen against a city and state of that citizen for damages that should be paid the citizen under equity.

CONSTITUTIONAL PROVISIONS

The Fourteenth amendment, section 1 to the Constitution provides that no state shall make or enforce any law that gives unequal protection to different citizens of the state.

STATEMENT OF THE CASE

A City of New York agency of the State of New York delegated to grant or deny preferential rent privileges to senior citizens, denied said privileges to the appellant although both his income and the state law were later changed so as to make appellant eligible for those privileges. Because of said changes, Appellant appeals for a refund of such of the excess rents he paid and is paying monthly as is applicable to the changes of his income and the state law of eligibility, with

interest, that he has paid and continues to pay to the principals, HARRY MACKLOWE and ABY ROSEN, for their benefit and profit, and later to their deductions from their City of New York property taxes, as the SCRIE agency law allows.

A provision of the agency's regulations, Appendix G, provides for the circumstance of change in earnings lowering income, and by substitution of changes in state laws increasing allowable income, Appendix H and Appendix I, "Albany update" September 2005, from Appellant's state senator Liz Krueger which show that allowable income limits for senior citizens (appellant is 80 January, 2006) has been raised to $24, 000 for 2004 and $25, 000 for 2005.

Appellant's 2004 U.S. income tax return is Appendix J demonstrates the rationale for the appeal relief request. It shows this, $1,363.47 adjusted gross income, making Appellant eligible for Department of Aging, City of New York rules revising the rent to $734.90 as of January 1, 2003. The naming as Parties affected by this Petition, HARRY MACKLOWE and ABY ROSEN, as Principals/Respondents who have received as profits from an increase in Appellant's rent from $734.90 in December, 2001 to $1,351.38 effective January 1, 2005, is justified by Appendices J, 2001 rent, K, 2005 rent, and June 19, 2002 a three-day notice by RAM I, LLC by ABY ROSEN as principal. HARRY MACKLOWE is the principal of CLASSIC REALTY LLC which sends the monthly rent bills payable to CLASSIC REALTY, AS AGENT for RAM I, LLC. HARRY MACKLOWE "joined the issue" of this appeal by joining the Department of Aging Respondent July 22, 2002, Appendix I, and August 2, 2002, Appendix J, with certified mail letters to the Department of Aging accusing "John Steel" and "John A. Steel" of fraud on the Respondent Department of Aging , City of New York, both appendices claiming fraud by the Appellant falsifying his income without proof of same.

REASONS FOR GRANTING THE WRIT

Granting this Petition for a Writ of Certiorari will decide the constitutionally of the "Urstadt law" which has not been decided by this Court, only by the state appellate court and not its Court of Appeals, although adversarial papers were filed in the latter court by the Respondents City of New York and State of New York by its Attorney General. The Petition will determine the rights of the citizens of New York City as to control by its city-wide elected city council dealing with rent control regulations, and take that out of the control of state citizens not living in New York City but upstate in the Adirondacks Mountains or rural areas, who vote and elect their state legislators. It will create a dictum applicable to all other states adopting housing rent control regulations. A recent example of its pertinence is Cambridge, Massachusetts, a part of Boston like the Bronx is part of New York City. Abolition of rent control on information and belief has affected many residents and landlords of Cambridge rasing affordable rents and taxes, and by rasing the taxes received by the City of Boston "to the benefit of the City of Boston but to the detriment of rental payers whose rents were raised". That issue is a "cousin" to the issue of eminent domain affecting taxes of residents of the City of New London, in the *Kelo* v. *City of New London*, 162 Law. ED. 2d 439 case, recently before this Court and now coming before about twenty state legislatures for statutes to delete the effect of *Kelo* v. *City of New London*, 162 Law. ED. 2d 439 Supreme Court Case. The principle of sovereign immunity is involved in this case and needs to be determined by the Supreme Court, whether or not a citizen can sue the City of New York or the State of New York. This principle has evolved over the centuries and was argued by the respondents' attorneys, for the City and State of New York, who argued that appellant could not sue the Coty and State of

New York because of the principle of sovereign immunity. The appellant relies on the dictum expressed in the dissent of Justice Harry Blackmun in the Supreme Court Case of 1989, *DeShaney v. Winnebago County Department of Social Services,* 489 US 189 (1989) case, where Justice Blackmun declared that if the citizen suffers damages he should be able to sue for his personal damages freed from the principle of sovereign immunity invoked in previous appeals by attorneys on behalf of the City and State of New York in the Appellate Division Court of Appeals for whom Certiorari is asked.

The principle of the one-man-one vote in state elections bears upon the voting right act in the following cases:

Baker v. Carr, 369 US 186 (1962), one man-one vote state redistricting; *DeShaney v. Winnebago County Department of Social Services,* 489 US 189 (1989); *Gray v. Sanders*, 372 US 186 (1962), one man-one vote state redistricting; *Gomillion v. Lightfoot*, 364 US 339 (1960), one man-one vote state redistricting; *Kirkpatrick v. Preisley*, 394 US 529 (1969), one man-one vote state redistricting; *Lucas v. Colorado*, 44th General Assembly, 377 US 713 (1964), one man-one vote state redistricting *Avery v. Midland County,* 390 US 474 (1978), one man-one vote state redistricting; *Reynolds v. Sims*, 377 US 533 (1964), one man-one vote state redistricting; *In the matter of Dred Scott*, 60 US 393, 1857, dictum that the laws of the home residence state or territory of a litigant determine his or her effective and applicable rights under the federal Constitution; *Wesberry v. Sanders*, 376 US 1 (1964), one man-one vote state redistricting; *Kelo v. City of New London*, 162 Law. ED. 2d 439, mandating that the benefits of tax increases by the City of New London by the building of a apartment house outweigh the loss of a home by the homeowner Ms. Kelo.

CONCLUSION

This Petition for a Writ of Certiorari should be granted because its resolution one way or the other, will affect the housing rights of not only senior citizens, but all residential renters in all the other states now and in the future who may be affected by eminent domain principle of higher tax benefits to a City, and the resolution and refinement of the principle of sovereign immunity, barring citizens from suing the City and State for relief and applicable damages for that part of the excess rent he was and is required to pay monthly to the principals HARRY MACKLOWE and ABY ROSEN to their profit and the possible consequential losses to the City of New York for tax deductions of refunds paid by these Principals to the Appellant.

December 30, 2005

Respectfully Submitted,

John Albert Steel

John Albert Steel, *Appellant*